

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Gjalb W. Huisman, Frank A. Skraly, David P. Martin, and Oliver P. Peoples

Serial No: 10/773,916

Art Unit: 1652

Filed: February 6, 2004

Examiner: Charles L. Patterson, Jr.

For: *Biological Systems for Manufacture of Polyhydroxyalkanoate
Polymers Containing 4-Hydroxyacids*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE
PATENTING REJECTION OVER TWO ISSUED PATENTS**

Sir:

Petitioner, Metabolix, Inc., is the owner of the entire interest in the above-identified application, U.S. Patent No. 6,316,262, issued November 13, 2001, and U.S. Patent No. 6,689,589, issued February 10, 2004, as evidenced by the accompanying Statements Under 37 C.F.R. § 3.73(b). Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173 as shortened by any terminal disclaimer filed prior to the grant of U.S. Patent No. 6,316,262 and U.S. Patent No. 6,689,589. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it, U. S. Patent No. 6,316,262, and U.S. Patent No. 6,689,589 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

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U.S.S.N. 10/773,916
Filed: February 6, 2004
TERMINAL DISCLAIMER TO OBVIATE A
DOUBLE PATENTING REJECTION
OVER TWO ISSUED PATENTS

statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Patent No. 6,316,262 and U.S. Patent No. 6,689,589, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that the granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned (whose title is supplied below) is empowered to act on behalf of Metabolix, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

METABOLIX, INC.

By: J. Barber

Name: J. BARBER

Title: PRESIDENT

Date: June 13, 2005

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Gialt W. Huisman, et al.

Application No./Patent No.: 09/156,809 / 6,316,262 Filed/Issue Date: September 18, 1998 / November 13, 2001

Entitled: Biological System for Manufacture of Polyhydroxyalkanoate Polymers Containing 4-Hydroxy Acids

Metabolix, Inc., a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest or
2. ☐ an assignee of an undivided part interest

In the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the Patent and Trademark Office at Reel 9509, Frame 0513, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

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☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.6)

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

MAY 22, 2001
Date

Oliver P. Peoples
Signature
OLIVER P. PEOPLES
Typed or printed name
VP R&D, C50
Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20237. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20237. MBX 017.

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STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: Gjalt W. Huismen, Frank Sicaly, David P. Martin and Oliver P. PeoplesApplication No./Patent No.: 10/006,915 / 6,689,589 Filed/Issue Date: November 9, 2001 / February 10, 2004Entitled: Biological Systems for Manufacture of Polyhydroxyalkanoate Polymers Containing 4-HydroxyacidsMetabolix, Inc.

(Name of Assignee)

a

Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by, percentage) of its ownership interest is _____ %

In the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 9309, Frame 0613, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

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☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☐ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

June 14, 2005
Date

JAMES J. BARBER
Typed or printed name

[Signature]
Signature

PRESIDENT
Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Gjalt W. Huisman, Frank Skraly, David P. Martin, and Oliver P. PeoplesApplication No./Patent No.: 10/773,916 Filed/Issue Date: February 6, 2004Entitled: Biological Systems for Manufacture of Polyhydroxyalkanoate Polymers Containing 4-HydroxyacidsMetabolix, Inc., a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the Patent and Trademark Office at Reel 9509, Frame 0513, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

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[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8]

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

June 13, 2005
Date

[Signature]
Signature
JAMES T. BARBER
Typed or printed name
PRESIDENT
Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.
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